IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6735 OF 2006

Mahadev Annappa Zaari & ors ..Petitioners
V/s.
Bhimanna Bhairappa Bhavikatti & ors ..Respondents

Mr.Prashant Patil i/b. Mr.Umesh Mankapure for the petitioners
Mr.T.S.Ingale for the respondent Nos.1 to 3

CORAM : A.S.OKA, J

DATE : 10TH APRIL, 2007

P.C.

1. Heard advocate appearing for the petitioners who are the original plaintiffs. The petitioners applied under O.XXVI, R.9 of the Civil Procedure Code, 1908 for appointment of an advocate as a Court Commissioner. The said application has been rejected by the order impugned dated 10th August, 2006. The learned advocate for the petitioners submitted that apart from rejecting the prayer for the appointment of the Court Commissioner, erroneous observations have been made by the learned trial Judge in the impugned order regarding scope of the suit filed by the petitioners.

2. I have considered the submissions. The order impugned is purely an interlocutory order. The observations which are made by the learned trial Judge while rejecting the application were in the context of the prayer made for the appointment of an advocate as the Court Commissioner. The said observations are obviously tentative. The learned trial Judge is bound to decide the suit in accordance with law.

3. If it is found necessary, the learned trial Judge can always pass an order at an appropriate stage for appointing a Survey Officer under the Maharashtra Land Revenue Code, 1966 as a Court Commissioner. Subject to what is stated above, the Writ Petition is rejected.

(A.S.OKA, J.)